

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Magistrate Docket No.

'08 MJ 2712

| FILED

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SA LFK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT FOR VIOLATION OF:

BY VMH DEPUTY

v.

(1) Jacinto CHAVEZ-PEREZ
(2) Mario AGUIRRE-HARRIS8 USC 1324(a)(2)(B)(ii)
Bringing in Alien(s) For Financial Gain
(Felony)
18 USC 2
Aiding and Abetting
(Felony)
18 USC 2237- Failure to heave to (Felony)

Defendants

The undersigned complainant being duly sworn states:

COUNT ONE

That on or about September 2, 2008, within the Southern District of California, defendants (1) Jacinto CHAVEZ-PEREZ and (2) Jacinto CHAVEZ-PEREZ, knowingly and intentionally, or acting in reckless disregard of the facts, did transport or attempted to transport within the United States, or aided and abetted in transporting within the United States, aliens, namely Jorge Alejandro ALCANTAR-VIVEROS, Irving LANDA-VALDEZ, and Wilber Homer RINCON-MENDOZA, who had not received prior official authorization to come to, enter and remain in the United States, by means of transportation or otherwise, in furtherance of such violation of law did willfully bring to and attempt to bring to the United States such aliens, a felony, in that the defendant committed the offense for the purpose of commercial advantage and private gain in violation of Title 8, United States Code Sections 1324(a)(1)(A)(ii) and (a)(1)(A)(v)(II) and Title 18, United States Code, Section 2.

COUNT TWO

That on or about September 2, 2008, Jacinto CHAVEZ-PEREZ attempted to flee Federal Law Enforcement officers by vessel, a felony, in violation of Title 18, United States Code, 2237, failure to heave to.

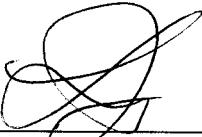
And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


Signature of Complainant

Matthew Mitchell, Detective
U.S. Immigration and
Customs Enforcement

2008
9/2/08
mmt

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 3rd DAY OF SEPTEMBER, 2008.



UNITED STATES MAGISTRATE JUDGE

Statement of Facts

These facts are based on my personal participation in this investigation and on written and oral statements received from other law enforcement officers. I submit that the facts contained in this statement demonstrate that the probable cause exists to believe that the Defendants named in the attached complaint committed the crimes charged in the complaint.

The complainant states that he believes that said aliens, Jorge Alejandro ALCANTAR-VIVEROS, Irving LANDA-VALDEZ, and Wilber Homer RINCON-MENDOZA, are citizens of a country other than the United States; that said aliens have admitted that they are deportable as defined in Title 8, United States Code, Section 1229(c); that it is impractical to secure their attendance at the trial thereof by subpoena; and that they are material witnesses in relation to this charge and should be held or admitted to bail as prescribed in Title 8, United States Code, Section 1227(d).

On September 2, 2008 at approximately 0330 hours the United States Customs and Border Protection Marine Interdiction Agents encountered a vessel on the Pacific Ocean approximately two nautical miles northwest of the Imperial Beach pier, in Imperial Beach, California. U.S. Customs and Border Protection Agents approached the vessel, which was running without required navigational lights. U.S. Customs and Border Protection Agents illuminated the suspect vessel, and observed the vessel to be a "panga" style boat without registration numbers. It was further observed the vessel was stateless and was not flying a country flag. Shortly after the vessel was illuminated, the vessel began actively fleeing from the marked U.S. Customs and Border Protection vessel. U.S. Customs and Border Protection Agents gave chase and eventually were forced to use disabling fire to stop the vessel from fleeing. Once the vessel was stopped, U.S. Customs and Border Protection Agents detained the 14 persons on board and obtained preliminary statements. that all persons were citizens of Mexico and in the United States illegally. All fourteen occupants claimed to be citizens of Mexico with no documents or other documentation to enter or remain in the United States. All occupants of the vessel were then transferred to CBP Vessel M392773 and transported to the Marine Corp Recruit Depot (MCRD). While at MCRD, U.S. Immigration and Customs Enforcement (ICE) Detective (Det.) Matthew Mitchell and Corporal (Cpl.) Michael Rich identified Jacinto CHAVEZ-PEREZ as the probable driver of the vessel. All eleven subjects were transferred to ICE and U.S Border Patrol custody at the MCRD, and subsequently transported to the U.S. Border Patrol Imperial Beach Station for processing and interview

Occupants of the vessel identified Jacinto CHAVEZ-PEREZ and Mario AGUIRRE-HARRIS from a photo array as the driver of the vessel, and radio operator, respectively, during witness interviews. Each smuggled alien stated that he/she was going to pay a fee (between \$3000 and \$5000) to be smuggled into the United States aboard the vessel.

Post Miranda, CHAVEZ-PEREZ admitted that he was going to be paid \$800 to \$900 to bring the undocumented aliens from Mexico to the United States aboard the vessel and AGUIRRE-HARRIS stated he was receiving a free ride to the United States for his services, which AGUIRRE-HARRIS said was worth \$2500. CHAVEZ-PEREZ and AGUIRRE-HARRIS declared that they departed from Rosarito, Mexico in the vessel. CHAVEZ-PEREZ stated he did not know the final destination because AGUIRRE-HARRIS was navigating. AGUIRRE-HARRIS stated the final destination was to be the Silver Strand in Coronado, California.